

## VALIDATE WARRANTS

Supreme Court Opinion Regarding Rate of Interest.

## THOSE ISSUED FOR LABOR

ON PUBLIC WORKS CARRY 8% INTEREST.

Those Issued For Other Purposes Draw But 5% From the Date the Validation Act Took Effect—Attorney Williams Sues For a \$2,000 Fee—Court Notes.

The supreme court yesterday handed down an important opinion relative to the payment of interest on county warrants issued in excess of the debt limit in 1894, and which was legalized by a subsequent act of the legislature. The court reverses the lower tribunal and decides that warrants in controversy issued for labor on public works must be paid with 8 per cent interest from date of registration, while warrants issued for any other purpose only draw 5 per cent interest from the date when the validation act took effect—June 5, 1896.

The case was that of Ellsworth Daggett vs. Stephen H. Lynch, treasurer of Salt Lake county. Daggett is the holder of a large number of warrants which were issued in excess of the debt limit, therefore void, but were subsequently validated by law. The warrants were presented for payment and the treasurer refused to pay the principal, with interest at the rate of 5 per cent only from June 5, 1896, the date upon which the validation act took effect. This was refused and suit was brought on two warrants, one for \$3, issued Dec. 16, 1894, for the benefit of paupers and insane persons, and the other on Dec. 17, 1894, for \$25, payment for road work. Daggett contended for interest on both at the rate of 8 per cent from the date on which they were presented and registered. In speaking of the validation act, the court says: "This act validated such warrants only so far as they were void in consequence of having been contracted in excess of the debt limit. The proviso is that the county or any taxpayer is not prohibited from defending against any such warrant upon any other ground than that the debt was contracted or that the warrant was issued in excess of the debt limit."

The warrants bearing date of Dec. 17, 1894, was issued to pay for labor on the road in pursuance of a legislative act authorizing the same to be issued and providing an interest rate of 8 per cent on the warrants to be redeemable within two years. So much of the warrants as provided for the payment of interest was not void, the court says, because there was no law authorizing such a provision. The promise to pay the interest was void for the same reason that the promise to pay principal was void—because the warrant had been issued in excess of the debt limit, and so far as the warrant was void for that reason the act of March 25, 1896, which validated a county void for want of authority may be validated by the legislature if it had the power before the void act was done to authorize it.

**PAUPER WARRANT DIFFERENT.** "But a different question is raised," says the court, "upon the other warrant, bearing date of Dec. 10, 1894, so far as it provides for the payment of interest. This warrant was issued upon indebtedness incurred for the support of paupers and insane persons, and there was no statute of the territory authorizing the county to pay interest on such indebtedness. Such warrants therefore drawing interest."

"If the warrant was void because it was issued in excess of the debt limit and so much of it as provided for the payment of interest was void because it was issued in excess of the debt limit, and so far as it was void because it was issued in excess of the debt limit, it was void because it was issued in excess of the debt limit, and so far as it was void because it was issued in excess of the debt limit, it was void because it was issued in excess of the debt limit."

"Public corporations, like private ones, can only contract within the limits of the law. If they exceed those limits, their contracts are void, and such as are necessary to their exercise, and therefore inoperative to them. There was no territorial law which authorized the county to pay interest on such indebtedness. The county is not authorized to pay interest on such indebtedness if the law for which the warrant of Dec. 10 was issued, to issue warrants drawing interest."

## LEGISLATIVE AUTHORITY.

After discussing the matter at some length the court continues:

"Experience and observation in the past disclose the evils and dangers of entrusting county boards with the general power to issue interest-bearing warrants. Some of the counties and cities of the late territory have been greatly embarrassed and injured by the exercise of such power. Such discretion holds out the temptation to create needless debts and make extravagant expenditures and affords opportunity for fraud and misappropriation of public funds. It is one which ought to please the patrons of that great system, and particularly those who travel on mileage books. The county of Salt Lake county was not authorized to issue warrants bearing interest without express legislative power to do so. While this question has not been before this court or the supreme court of the late territory it has been decided by the highest courts of other states, and in each case there is an irreconcilable conflict in those decisions; but in the light of experience and observation and in view of the welfare of the people of the various counties and of the reasons stated we are disposed to follow those authorities which hold that counties have no authority to incur indebtedness bearing interest or to issue interest-bearing warrants without express legislative authority."

The court then sums up the law and decides that in view of the fact that the county court had no authority to issue interest-bearing warrants for any other purpose than road work, as specially provided for, interest on such warrants is only to be paid at the rate of 5 per cent from June 5, 1896, on which date the validation act went into effect.

With relation to warrants of this class issued for road work the court decides that inasmuch as there was a special legislative provision for interest at the rate of 8 per cent, interest is payable from the date on which the warrants were registered.

The lower court held that all warrants draw interest at the rate of 8 per cent from date of registration.

## Short Orders.

The following orders were entered by Judge Cherry yesterday:

E. M. Padelford vs. C. H. Hardy, leave given to amend complaint.

William Webb et al. vs. Thomas Mulloy et al.; action dismissed, having been settled out of court.

Dominick P. Benson et al. vs. Salt Lake county; action dismissed, having been settled out of court.

Sues For His Fee.

The case of Attorney James A. Williams against Martha A. Combs was on before a jury in Judge Cherry's court all yesterday. The suit was brought by Williams for \$2,000, alleged to be due him for services as attorney for Mrs. Combs in her damage suits against the Salt Lake & Fort Douglas Railway company.

Walter Griffith yesterday withdrew his answer in the divorce proceedings filed against him by his wife, Ann Griffith, and so it is presumed the lady will now secure her decree without difficulty.

Charles Malm of Sweden and Andrew Erickson of Norway were admitted to citizenship yesterday by Judge Hiles.

Motion to set aside judgment obtained by Nellie S. B. Smith against M. Schwartz and Leo Alexander by default has been filed, the grounds being that the plaintiff knew nothing about the case being up for trial.

Charles Mathews has asked for a renewal of a judgment for \$2,308.30 obtained by him in 1893 against H. L. Woolley and J. H. Hardy.

## THE FOOTBALL SEASON

Opened By High School and All Hallows College.

## FORMER WON THE GAME

THE SCORE STOOD SEVENTEEN TO SIX.

It was a Well Contested Game and Both the Teams Give Promise of Good Work During the Season—Quite a Number of Visitors Were Present.

The football season was ushered in yesterday by a very good game on the Fort Douglas grounds between the High school and All Hallows college. Three hundred or four hundred spectators were present, and the result was a victory for the High school, the score standing 17 to 6. The line-up was as follows:

High School. Positions. All Hallows.  
Left Guard. Ryan. Jones.  
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Defensive Back. Ryan. Jones.  
Offensive Back. Ryan. Jones.  
Wide Receiver. Ryan. Jones.  
Tight End. Ryan. Jones.  
Punter. Ryan. Jones.  
Kicker. Ryan. Jones.

Neither side took advantage of kicking when it was the third down and there remained several yards to gain. The line made by the High school is much better to surrender the ball 20 or 30 yards nearer your opponents' goal than to run the risk of making the necessary distance on the last down.

The interference of the High school was far superior to that of the college. Their backs got away quickly and protected the runner well. Every man appeared to understand his position in each play. On one end the High school was clearly outplayed. Burke, left end, played a marvellous game. His tackling was hard, low and sure. Very few gains were made around his end; in fact, the runner was usually thrown back with a loss. The other two ends were evenly matched.

Tarpey, left tackle, was doubtless the star of the High school team. When a gain was needed, Tarpey, if called upon, would make it. He also got away with several times on fumbles. The center men on both sides were evenly matched. All Hallows' strongest attack was behind the line. Her backs were heavy and hard to stop, but they lacked interest. Too much reliance was placed in their individual strength.

All Black runs were made on tricks. Howell made several brilliant runs of 30 or 40 yards on the criss-cross. All Hallows' backs were not so good. After meeting with such success with a play, one would suppose that the play would be again attempted. In fact, the known reason they failed to try the trick again.

Fanning, captain of All Hallows, had his team under perfect control. There was no "kicking" on their part against the High school. On the contrary, indulged in any amount of "kicking."

Consider the terrible condition of the field, the earliness of the season and the condition of the men, the game was very creditable.

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**THE GAME.** Taylor of the High school won the toss and chose the south half of the field. Fanning, of All Hallows' team, kicked off with the ball, and the High school made the first gain on the end line and carried ten yards up the field. Fanning, of All Hallows, made a brilliant run of ten yards, and the High school made a gain of five yards and was followed by Smith with a seven-yard dash. Young and Thomas, of All Hallows, made a gain of five yards and was followed by Smith with a seven-yard dash.

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## SAXTON'S WILL FOUND.

Bequeathed His Entire Estate to Mrs. Barber, a Sister.

## Cleveland, O., Oct. 13.—A special from

Canton, O., says the will of George D. Saxton has been found. It was made last April and was witnessed by James J. Grant and Oliver E. Schlaman. The document bequeathed all his estate to Mrs. M. C. Barber, sister of deceased, as entitled property. After her death the estate is to be divided among the five children of the beneficiary, George, Mary, John and Ida Barber. Mrs. McKinley, therefore, received nothing. Mrs. Barber is named as executrix, without bond. The value of the property is not known, but a personal friend of deceased estimates it will foot up \$300,000. The property consists of business blocks in Canton, a number of lots, a large saw mill in Missouri and a big block of mining stock in the west.

**That Joyful Feeling**  
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